IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6947 OF 2005

The State of Maharashtra ...Applicant

Versus

Abdul Manan Abdul Sattar Shaikh ...Respondent

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Mr.V.B.Konde-Deshmukh, A.P.P. for Applicant.

None for Respondent.

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CORAM: A.M.KHANWILKAR, J.

NOVEMBER 23, 2005.

P.C.

1. Inspite of service, none appears for the Respondent. No reply has been filed opposing this Application.

2. The short question raised in this Application at the instance of the State is regarding the appropriateness of the direction given by the Trial Court, declining request of the investigating agency to grant custodial

interrogation of the accused and instead, remanding the accused to judicial custody. The order passed by the lower Court dated 1st September 2005 reads thus:

> "The accused is produced before me at 3.00 p.m. No.complainants. Perused the police papers. Heard L.O.
>
> It is submitted that the custodial interrogation of the accused is required for tracing out the absconding accused. Except this, no other ground is taken tough submissions are made that the offence is under M.C.O.C. Act. In the facts of the case, I am not satisfied with the grounds taken by the prosecution. The investigation came to proceed even without custodial interrogation of the accused. no case for grant of Police custody is made out. Hence, accused is remanded in Judicial Custody till 30/09/2005."

3. Indeed, the lower Court may be right to an extent in observing that the Application filed by the investigating agency only mentions that the offence is under M.C.O.C. Act. The fact remains that offence under M.C.O.C. Act has been registered against the accused. That itself means that the accused has been named in a serious offence, for which, even prayer for bail cannot be considered lightly in the nature of offence of

M.C.O.C. Act. Investigation of such a case is an involved process requiring proper interrogation of the accused. In my opinion, therefore, the Trial Court was not right in rejecting the request of the investigating agency of police custody for custodial interrogation and instead, ordering judicial custody, that too, on the first day of production of the accused.

4. Accordingly, the order dated 1st September 2005 is set aside.

5. It will be open to the investigating agency to approach the Trial Court for appropriate directions, as may be advised.

6. All concerned to act on an ordinary copy of this order, duly authenticated by the Office.

A.M.KHANWILKAR, J.